

## **DECISION**

### **Dispute Codes:**

**ET, FF**

### **Introduction**

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an early end of the tenancy and an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The Agent for the landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing was served to the tenant on June 11, 2010, by posting to the door of the tenant's rental unit at approximately 12:30 p.m. The agent showed the upstairs occupant the documents she was about to post and then went downstairs to post them. The landlord took a photograph of the daily newspaper, next to the Notice of hearing.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however; the tenant did not appear at the hearing.

### **Issue(s) to be Decided**

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Is the landlord entitled to filing fee costs?

### **Background and Evidence**

The tenancy commenced in May 2010.

The landlord submitted a copy of an email dated June 10, 2010, from a Constable with the Surrey R.C.M.P. This email confirmed that on June 10, 2010, the tenant had been arrested as the result of an allegation of having committed a break and enter into the upstairs rental unit where the landlord and 2 other occupants reside. It is alleged that the tenant stole a stereo from the landlord's unit. The email references a May 18, 2010, incident, when the female occupant from the upstairs unit witnessed the tenant breaking the Shaw cable box, so he could gain entry to the cable.

The landlord read from a June 10, 2010, letter written by a male occupant who resides upstairs; alleging disturbances caused by the tenant.

The landlord read from a letter dated June 11, 2010, written by the female occupant. This letter indicated that the tenant is engaging in drug use. The occupant described an incident that occurred on May 6, 2010, when the landlord had served the tenant with a Notice ending his tenancy. The tenant came to the door downstairs and could be heard acting aggressively with the landlord. The occupant went downstairs and witnessed the tenant pushing the landlord backwards. The tenant then threatened the female occupant, who called police.

The next week the female occupant had Shaw cable come to the home to install cable service and at that time the technician discovered that the tenant was stealing cable service; a lock was placed on the cable box. Subsequently, the female occupant witnessed the tenant breaking the cable box, and she called the police. Prior to calling the police the tenant threatened the occupant.

On June 10, 2010, the female occupant witnessed the tenant running across the yard of the home, carrying the stereo that had been in the upstairs rental unit. The agent for the landlord stated that the tenant gained access through an upstairs window, that he took the stereo, went down the stairs and kicked the door, breaking the woodwork, as the exit was locked.

The female occupant has just received a copy of a legal document which indicates that the tenant is not to be present on the property. The occupant has told the agent that the authorities will be called as the tenant is in the home.

### Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that she has cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord and having heard the written statements read by the landlord and the statement of the R.C.M.P., I find that the landlord has met that burden.

In relation to sufficient cause, I find that the disturbances created by the tenant have resulted in placing the safety of the upstairs occupants and the landlord in jeopardy.

Secondly, in the circumstances it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47 and therefore I find that the landlord is entitled to an immediate order of possession. A formal order has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

As the landlord's Application has merit I find that the landlord is entitled to the sum of \$50 being the cost of the filing fee paid pursuant to section 59.

### Conclusion

The landlord has been granted an Order of possession that is **effective immediately upon service to the tenant**. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution and I grant the landlord a monetary Order in that amount.

In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 24, 2010.

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Dispute Resolution Officer